

**63-56-425. Purchase from community rehabilitation programs.**

(1) As used in this section:

(a) "Board" means the Purchasing from Persons with Disabilities Advisory Board created under this section.

(b) "Central not-for-profit association" means a group of experts designated by the board to do the following, under guidelines established by the board:

- (i) assist the board with its functions; and
- (ii) facilitate the implementation of board policies.

(c) (i) "Community rehabilitation program" means a program that is operated primarily for the purpose of the employment and training of persons with a disability by a government agency or qualified nonprofit organization which is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

(ii) A community rehabilitation program:

(A) maintains an employment ratio of at least 75% of the program employees under the procurement contract in question have severe disabilities;

(B) (I) complies with any applicable occupational health and safety standards prescribed by the United States Department of Labor; or

(II) is a supported employment program approved by the Utah State Office of Rehabilitation;

(C) has its principal place of business in Utah;

(D) produces any good provided under this section in Utah; and

(E) provides any service that is provided by individuals with a majority of whom domiciled in Utah.

(d) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(2) (a) There is created the Purchasing from Persons with Disabilities Advisory Board within the Division of Purchasing and General Services of the Department of Administrative Services. The board shall be composed of the following three members:

(i) the director of the Division of Purchasing and General Services created under Section **63A-2-101** or a designee;

(ii) the executive director of the Utah State Office of Rehabilitation created under Section **53A-24-103** or a designee; and

(iii) a representative of the private business community who shall be appointed to a three-year term by the governor with the advice and consent of the Senate.

(b) The board shall meet, as needed, to facilitate the procurement of goods and services from community rehabilitation programs by a public procurement unit under this chapter by:

(i) identifying goods and services that are available from community rehabilitation programs according to the requirements under Subsection (4);

(ii) approving prices in accordance with Subsection (4)(c) for goods and services that are identified under Subsection (2)(b)(i);

(iii) developing, maintaining, and approving a preferred procurement contract list of goods and services identified and priced under Subsections (2)(b)(i) and (ii);

(iv) reviewing bids received by a community rehabilitation program; and

(v) awarding and renewing specified contracts for set contract times, without competitive bidding, for the purchase of goods and services under Subsection (4).

(c) The provisions of Subsections (2)(b) and (4)(a) are an exception to the procurement provisions under this chapter.

(3) (a) The board may designate a central not-for-profit association, appoint its members, and establish guidelines for its duties.

(b) The designated central not-for-profit association serves at the pleasure of the board and the central not-for-profit association or its individual members may be removed by the board at any time by a majority vote of the board.

(c) Subject to the board guidelines and discretion, a designated central not-for-profit association may be assigned to perform the following duties:

(i) identify qualified community rehabilitation programs and the goods and services that they provide or have the potential to provide;

(ii) help ensure that goods and services are provided at reasonable quality and delivery levels;

(iii) recommend pricing for goods and services;

(iv) reviewing bids and recommending the award of contracts under the board's direction;

(v) collecting and reporting program data to the board and to the division; and

(vi) other duties specified by the board.

(4) Except as provided under Subsection (6), notwithstanding any provision in this chapter to the contrary, each public procurement unit shall purchase goods and services produced by a community rehabilitation program using the preferred procurement contract list approved under Subsection (2)(b)(iii) if:

(a) the good or service offered for sale by a community rehabilitation program reasonably conforms to the needs and specifications of the public procurement unit;

(b) the community rehabilitation program can supply the good or service within a reasonable time; and

(c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.

(5) Each community rehabilitation program:

(a) may submit a bid to the board at any time and not necessarily in response to a request for bids; and

(b) shall certify on any bid it submits to the board or to a public procurement unit under this section that it is claiming a preference under this section.

(6) During a fiscal year, the requirement for a public procurement unit to purchase goods and services produced by a community rehabilitation program under the preferred procurement list under Subsection (4) does not apply if the Division of Purchasing and General Services determines that the total amount of procurement contracts with community rehabilitation programs has reached \$5 million for that fiscal year.

(7) In the case of conflict between a purchase under this section and a purchase under Section **63-56-423**, this section prevails.